

Exhibit 3

Sherry Spesock Deposition

Civil Action No.: 1:18-cv-1046

Defendant . ,

* C O P Y *

1 Q. In various ways as it pertains to what she
2 did and how she interacted with her clients and her
3 coworkers. Correct?

4 A. Uh-huh.

5 Q. Did you have any input on the numbers that
6 were attributed to her job performance?

7 A. Yes.

8 Q. Okay. For example, under performance on
9 the first page, the very first thing says, business
10 knowledge. Do you see that?

11 A. Uh-huh.

12 Q. And then there was a number four. And
13 that means that Nadine was considered to be
14 exceptional in that area. Correct?

15 A. Correct.

16 Q. Was that four given to Nadine because you
17 wanted it there, or because someone else wanted it
18 there?

19 A. I put it there.

20 Q. Okay. Now, how did you make that
21 determination if you had not evaluated Nadine's job
22 performance?

23 A. It was based off of previous conversations
24 with Ms. Trotter before she left.

25 Q. I see.



1 Were any of the numbers attributed to Ms.
2 Lee on this performance evaluation provided to you
3 by Liliana Camara?

4 A. No.

5 Q. Okay, so these numbers were all based on
6 communications that you had with Ms. Trotter.
7 Correct?

8 A. Correct. And that was prior to her
9 leaving.

10 Q. I see.

11 My understanding is that Ms. Trotter left
12 somewhere in November of 2016. Is that right?

13 A. Correct.

14 Q. And this evaluation covers the review of
15 the year of 2016. Correct?

16 A. Correct.

17 Q. Now, I did not see and have not seen
18 provided to me in any documentation a review for Ms.
19 Lee for the year of 2017.

20 Do you know if such document exists?

21 A. Not that I'm aware of. It would have been
22 done in April of 2018.

23 Q. I see. And by that time, Ms. Lee was no
24 longer employed at Market America. Correct?

25 A. Correct.



1 Q. Okay. Great.

2 And you would agree with me that Ms.

3 Trotter made a number of comments in the performance
4 comments section on this evaluation.

5 A. Yes, ma'am.

6 Q. But on the last evaluation, which was the
7 one done in 2017, there were no written comments.
8 Do you know why?

9 A. Because I didn't feel like I could give a
10 true evaluation for her in the interim.

11 Q. Okay, and, then, Ms. Trotter, I'm
12 assuming, and you can correct me if I'm wrong,
13 didn't provide you with any comments ---

14 A. --- Correct.

15 Q. --- To put on that evaluation.

16 A. Correct.

17 Q. Right. And that's the 20 -- the one
18 that's dated 2017?

19 A. Yes, ma'am.

20 Q. All right. Do you have any reason to
21 believe that any of the performance comments on the
22 document MA286 through 287 are inaccurate?

23 A. I cannot speak for her evaluation for
24 2015.

25 Q. And in your opinion, you believe this is a



1 performing her job?

2 A. Correct.

3 Q. So as you sit here today, you have -- or
4 maybe you do. I don't know. Do you have an opinion
5 about how Ms. Lee performed her job based on your
6 firsthand knowledge?

7 A. Just from what I observed, just -- she was
8 just quick to leave, not willing to do any
9 additional work.

10 Q. And you're talking about from the incident
11 in September of 2016. Correct?

12 A. In June.

13 Q. I'm sorry. June of 2016.

14 A. That is correct. That is the only time
15 I've ever observed her.

16 Q. Okey-dokey. What I want to show you is --
17 or what I want to ask you about, rather, is a
18 document that was presented to me by counsel for
19 Market America. It's called the defendant's initial
20 disclosures.

21 And what they have indicated to me is that
22 you have knowledge of the plaintiff's work
23 performance. And I
24 believe I've asked you about that already.

25 And so we're clear and the record is



1 was the individual that we were wanting to have take
2 that position as a training specialist.

3 Q. Did you have a training specialist
4 position open at the time?

5 A. No.

6 Q. So why were you training someone for a
7 position that wasn't open?

8 A. It was going to replace Ms. Lee.

9 Q. Okay, so at some point there was a
10 decision made that Ms. Lee would be replaced?

11 A. That is correct.

12 Q. Because of what?

13 A. Not being a team player and not doing the
14 trainings that were asked, or giving pushback for
15 the trainings that were asked.

16 Q. Okay. When did you learn that Ms. Lee was
17 not being a team player?

18 A. It was through one-on-ones that I had with
19 Ms. Camara.

20 Q. And so Ms. Camara reported to you that Ms.
21 Lee was not being a team player.

22 Do you recall when she first told you
23 this?

24 A. I do not recall.

25 Q. Was it in 2016 or 2017?



1 A. It would have been in 2017.

2 Q. And would it have occurred after the
3 evaluation was given to Ms. Lee in April of 2017?

4 A. I do not recall.

5 Q. Okay, so you recall that at some point in
6 2017, assuming Rose had already been hired by Market
7 America at that point. Correct?

8 A. Correct. Rose was hired and was going
9 through training. And Ms. Lee was asked to do the
10 Mandarin training. Ms. Chaffin actually did both
11 trainings to make sure that she was understanding
12 the material that was being presented.

13 Q. Do you know what position Rose applied for
14 at Market America when she first started working
15 there?

16 A. From what I recall, it was an account
17 services rep.

18 Q. According to the information I have, she
19 was applying for a position as an unfranchise
20 services representative.

21 A. Yes. It's the same thing, it's just a
22 different -- we call them account services reps now.

23 Q. Okay, and it looks like the date of her
24 application was December 27, 2016. Does that sound
25 right to you?



1 A. Say that one more time.

2 Q. Her date of application was December 27th,
3 2016.

4 A. That sounds correct.

5 Q. And on her application she indicated that
6 she would not be available for work until January of
7 2017. Correct?

8 A. Correct.

9 Q. Okay, so why is it that Ms. Chaffin
10 applied for an account representative position, but
11 as early as a few months into her tenure in that
12 position, a decision was made that she was going to
13 be trained to become a training specialist?

14 A. We -- it was found that she was able and
15 capable of doing the job based on her previous
16 experience as a teacher.

17 Q. Did you review her application?

18 A. I did not.

19 Q. Did you hire her?

20 A. I did not.

21 Q. So what did you know about her teaching,
22 her previous teaching, if you didn't review her
23 application and you didn't hire her?

24 A. It was a decision made by the current
25 customer service manager and Ms. Camara.



1 someone who Market America wanted to train to become
2 a training specialist. Correct?

3 A. Correct.

4 Q. And in her role as a training specialist,
5 what was she going to do?

6 A. She would be handling the MPCP, the new
7 account services rep trainings and any other
8 trainings that were asked to perform.

9 Q. And was that something that was already on
10 Ms. Lee's job description?

11 A. It's my understanding, yes, that she was
12 going to be taking over that position.

13 Q. And did you ever articulate to Ms. Lee
14 that this was the plan?

15 A. No.

16 Q. Do you know if anyone ever articulated
17 this to Ms. Lee as that being the plan?

18 A. I do not know.

19 Q. And your understanding of why this was
20 going to happen was solely based on what was told to
21 you by Liliana Camara and/or Brandi Foster?

22 A. The observations of Ms. Camara.

23 Q. Brandi Foster didn't have any input with
24 you about it?

25 A. About Ms. Chaffin or about Ms. Lee?



1 A. And it would have been done by the
2 training department. So it would have been her
3 reporting to Ms. Camara.

4 Q. Okay. At the time of Ms. Lee's
5 termination, her title was global training projects
6 manager. Is that correct?

7 A. Correct.

8 Q. Was anyone ever hired to that position
9 after Ms. Lee was terminated?

10 A. No, ma'am.

11 Q. Okay. It says that you have knowledge of
12 the hiring of the individuals in the training
13 department, including plaintiff's replacement.

14 You're only talking about your knowledge
15 of Rose Chaffin. Correct?

16 A. Correct.

17 Q. Because there was no one who was placed in
18 the position of the global training projects
19 manager. Correct?

20 A. That is correct.

21 Q. No one was hired for that position?

22 A. That is correct.

23 Q. Okay, so was the global training projects
24 manager position eliminated?

25 A. Correct.



1 Ms. Lee had filed against Market America. Correct?

2 A. Correct.

3 Q. And I'm going to start off at the very
4 beginning where it says Ms. Lee was terminated from
5 her position as a corporate trainer by Market
6 America on October 15th, 2017.

7 Do you see that?

8 A. I do.

9 Q. I don't see anything on that statement
10 about the position being eliminated.

11 Is there any reason why you didn't include
12 that on that first line?

13 A. I don't recall. I don't recall why we
14 didn't add that.

15 Q. Okay, so Ms. Lee also was not a corporate
16 trainer at that time. She was the global training
17 projects manager. Correct?

18 A. Correct.

19 Q. And that was a management position.
20 Correct?

21 A. It was not. She did not have direct
22 reports.

23 Q. I see. Okay.

24 A. It was a manager of a process.

25 Q. I see. Okay.



1 Was there a distinction in your mind
2 between the corporate trainer and the global project
3 -- global training projects manager position?

4 A. Can you repeat that?

5 Q. In your mind, was there a distinction
6 between a corporate trainer and the global training
7 projects manager position?

8 A. Sorry. For some reason I cannot wrap my
9 brain around what you're trying to ask.

10 Q. As it pertains to the terminology that you
11 used in this response, this position statement, you
12 said she was terminated from her position as
13 corporate trainer. You didn't use her job title.

14 And my question is, in your mind, is there
15 a distinction between those two positions?

16 A. No.

17 Q. Okay. Then in the last paragraph it says
18 the fact that Ms. Lee was replaced as a corporate
19 trainer by Rose, a 54-year-old Chinese female,
20 demonstrates conclusively the lack of merit to Ms.
21 Lee's charges against Market America.

22 You see that?

23 A. I do.

24 Q. Now, you agree that that's incorrect,
25 because you said Ms. Chaffin did not replace Ms. Lee



1 in her position. Correct?

2 A. She was -- her duties replaced Ms. Lee.

3 Q. Only her training specialist duties.

4 Correct?

5 A. Correct.

6 Q. And I believe you said that no one was put
7 in the position that Ms. Lee formerly held.

8 Correct?

9 A. That is correct.

10 Q. All right. Now, let's skip over to the
11 page that is identified at 019.

12 Do you see the paragraph where we're
13 talking about Ms. Lee possesses a degree in
14 chemistry and had no managerial experience prior to
15 or during her tenure at Market America?

16 A. Yes.

17 Q. What did that have to do with the fact
18 that Ms. Lee's position was eliminated?

19 A. It is my understanding that it was due to
20 her not being hired as a manager of a department.
21 But I do not recall specifically.

22 Q. You mean to Ms. Lee not being hired as the
23 manager of the department?

24 A. Correct.

25 Q. Oh, I see.



1 Have you told me everything about that
2 that you know of, and her failure to be a team
3 player?

4 A. Yes.

5 Q. Okay, so your position is that Ms. Lee was
6 terminated for these reasons, as well?

7 A. Correct.

8 Q. Okay, and I believe you said that the
9 reason for -- that the person who terminated Ms. Lee
10 was Liliana Camara. Correct?

11 A. Correct.

12 Q. Okay. Now, did you ever receive any
13 emails from any employees complaining about Ms.
14 Lee's job performance?

15 A. I did not.

16 Q. Did you receive any emails from any
17 customers or clients, individuals whom Ms. Lee may
18 have trained, complaining about her job performance?

19 A. I did not.

20 Q. Do you know if Ms. Camara received such
21 items?

22 A. I do not recall.

23 Q. Did Ms. Lee ever make a statement to you
24 that Ms. Camara had said that she felt that there
25 were cultural differences between Ms. Lee and



1 herself that impacted their ability to work
2 together?

3 A. She had mentioned it originally, yes, when
4 she was going to be reporting to her.

5 Q. Tell me what you remember about that
6 conversation.

7 A. Ms. Lee had come to me, stating that she
8 didn't feel comfortable reporting to Ms. Camara
9 because of -- I don't recall what was said.
10 Something that was said when they first started
11 working together.

12 And I told her that I would have a
13 conversation with Ms. Camara. But as the manager of
14 the department, she would be reporting to Ms.
15 Camara.

16 Q. And is that the only time that you recall
17 that type of conversation coming up between you and
18 Ms. Lee?

19 A. I don't recall if there were any others.
20 There might have been, but I don't recall.

21 Q. Okay, and then you did speak to Ms. Camara
22 about Ms. Lee's communications with you. Is that
23 right?

24 A. Yes, ma'am.

25 Q. And tell me what happened during that



1 conversation.

2 A. That conversation between Ms. Camara and I
3 was, you know, to, you know, be a professional and,
4 you know, manage everybody the same, and not treat
5 her any different, which she wouldn't either --
6 anyways.

7 And just, you know, to be the best manager
8 that she could be of the department.

9 Q. Did you have a recollection of when that
10 conversation may have happened between you and Ms.
11 Camara?

12 A. It was shortly after Ms. Lee and I had
13 met. I don't remember when it was though.

14 Q. And you don't remember when you and Ms.
15 Lee met or ---

16 A. --- I do not.

17 Q. My understanding is that Ms. Camara
18 supervised an individual by the name of Delia
19 Zapata.

20 A. Yes, ma'am.

21 Q. And my understanding is that Ms. Zapata --
22 and I hope I'm saying her name correct -- was hired
23 as a training specialist. Is that correct?

24 A. She was promoted within. She was also --
25 if memory serves correctly, she was also an account



1 I'm trying to remember. I'm sorry. I'm
2 trying to get my timeline correct to my brain.

3 Ms. Zapata might have been hired by
4 Lilliana -- Ms. Camara. Henri was hired prior -- or
5 promoted prior to Ms. Zapata.

6 I apologize. I cannot recall exactly when
7 that happened.

8 Q. Okay. What is Ms. Zapata's race?

9 A. She's Hispanic.

10 Q. And what about Mr. Hue?

11 A. I don't know what nationality he is, but
12 he's Black.

13 Q. Okay, and then what about, are you
14 familiar with Cherri Walston?

15 A. She was Black.

16 Q. And was she hired by Ms. Camara?

17 A. Not that I am aware of. She was there
18 prior to Ms. Camara.

19 Q. Okay, so based on what you're telling me,
20 it doesn't sound like Ms. Camara hired any of these
21 individuals. Is that right?

22 A. Like I said, I can't remember exactly my
23 timeline. It is possible that Ms. Zapata was
24 promoted by Ms. Camara, but I cannot recall if
25 that's accurate.



1 unemployment division. It's the division of
2 employment security, which handles unemployment
3 benefits for individuals.

4 A. Correct.

5 Q. Would you agree with me that that is what
6 you're looking at?

7 A. Yes.

8 Q. Okay, and it looks like to me, this is
9 documentation that Market America submitted in
10 response to Ms. Lee's request for unemployment
11 benefits.

12 Would you agree with that?

13 A. Yes, ma'am.

14 Q. All right. According to this document, if
15 you look in box number eight, which would be on
16 Bates stamp 357.

17 Do you see that?

18 A. I do.

19 Q. Number eight, it says reason why claimant
20 is no longer working. And then there's a check
21 beside other, and it says complete item 17.

22 Do you see that?

23 A. Uh-huh.

24 Q. And then when you go down to item 17,
25 which is on the next page, it says position



1 eliminated.

2 Do you see that?

3 A. I do.

4 Q. If Ms. Lee was terminated for the reasons
5 that are set forth in these discovery responses, and
6 you've agreed that they are accurate and correct,
7 why was the North Carolina Department of Commerce
8 told that Ms. Lee was separated due to a position
9 elimination?

10 A. I believe it was miscommunication.

11 Q. Between whom?

12 A. What was documented on the file. And
13 there's a reason that's put on the employment file,
14 on the front. And I believe that that was
15 incorrectly documented.

16 Q. And who do you think incorrectly
17 documented it?

18 A. I do not recall.

19 Q. When you say you believe that there was
20 documentation miscommunication, you believe that
21 there was something on Ms. Lee's employee file at
22 Market America that was inaccurate, which led to
23 this inaccurate information to the department of
24 commerce?

25 A. Correct.



1 you have indicated Ms. Lee was terminated. And then
2 there was an indication to the department of
3 commerce that her position was eliminated.

4 What can we relay on here in terms of what
5 is accurate and what is true?

6 A. The role itself was eliminated. She was
7 terminated based on her performance.

8 Q. Do you understand that if the employer
9 informs the department of commerce that an
10 employee's position has been eliminated, that that
11 implies there is no wrongful conduct on behalf of
12 that employee that would disqualify that employee
13 from receiving unemployment benefits?

14 A. Yes, I'm aware of that.

15 Q. Based on the representations that were
16 made by Market America, are you aware that -- to the
17 department of commerce -- that Ms. Lee was able to
18 get unemployment benefits?

19 A. I'm sorry. Can you repeat that?

20 Q. Based on the information that was provided
21 to the department of commerce by Market America, are
22 you aware that Ms. Lee was able to get unemployment
23 benefits?

24 A. Yes.

25 Q. Do you think that Market America is in any

